APPENDIX

IN THE

DISTRICT COURT OF THE UNITED STATES
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Solventol Chemical Products, Inc., Plaintiff, v. Conrad E. Langfield, doing business as The Solvite Company, Defendant.	Civil Case No. 1676

PLAINTIFF'S ANSWER TO DEFENDANT'S COUNTERCLAIM

1. Plaintiff admits the allegations of Paragraph 1 of Defendant's counterclaim.

2. Plaintiff admits the allegations of Paragraph 2 of Defendant's counterclaim.

3. Plaintiff admits the allegations of Paragraph 3 of Defendant's counterclaim.

4. Plaintiff alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of Defendant's counterclaim.

5. Plaintiff admits that on June 12, 1928, the trademark "Solvite" was registered in the name of Conrad E. Langfield, but Plaintiff alleges that it is without knowledge or information sufficient to form a belief as to the

truth of the remaining allegations of Paragraph 5 of Defendant's counterclaim.

6. Plaintiff denies the allegations of Paragraph 6 of Defendant's counterclaim.

7. Plaintiff denies the allegations of Paragraph 7 of Defendant's counterclaim.

8. Plaintiff admits that its goods bearing the trademark "Solventol" are sold in interstate commerce, but Plaintiff alleges that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 8 of Defendant's counterclaim.

Wherefore, Plaintiff prays that Defendant's counterclaim herein be dismissed without costs to Plaintiff.

John A. Blair
Harness, Dickey & Pierce,
Attorneys for Plaintiff, Solventol Chemical Products, Inc.

7-141 General Motors Building,
Detroit, Michigan.
March 11, 1940.

JAB:LL

PROOF OF SERVICE

State of Michigan,
County of Wayne—ss.

Robert L. Boynton, being duly sworn, deposes and says that he is an attorney admitted to practice before the courts of the State of Michigan and that he was associated with John A. Blair, of the firm of Harness, Dickey & Pierce, 7-141 General Motors Building, Detroit,

Michigan, in the trial of the case of Solventol Chemical Products, Inc. v. Conrad E. Langfield, Civil Action No. 1676, in the United States District Court for the Eastern District of Michigan, Southern Division; that on March 12, 1940 he personally served a copy of Plaintiff's answer to Defendant's counterclaim upon the firm of Hill, Hamblen, Essery & Lewis, 2282 Union Guardian Building, attorneys for Conrad E. Langfield in the said suit, and that he has refreshed his recollection regarding the personal service of said answer to the counterclaim by reference to his contemporaneous time records in which he records, in the usual course of business, the time spent performing all legal services, the name of the client for whom the services were performed and the date upon which said services were performed.

Further Affiant sayeth not.

/s/ Robert L. Boynton.

Sworn to and subscribed before me this 16th day of July, 1943.

/s/ Lois Elaine Linn,
Notary Public, Wayne County, Michigan.
My Commission expires: March 25, 1946.

(Seal)

AFFIDAVIT

State of Michigan,
County of Wayne—ss.

John A. Blair, being duly sworn, deposes and says that he is a member of the Bar of the State of Michigan and attorney for Solventol Chemical Products, Inc. in the case of Solventol Chemical Products, Inc. v. Conrad E. Langfield, doing business as The Solvite Company,

Civil Action No. 1676, in the District Court of the United States for the Eastern District of Michigan, Southern Division; that he represented Appellant, Solventol Chemical Products, Inc., in an appeal from that case to the Circuit Court of Appeals for the Sixth Circuit; that at no time during the proceedings in the District Court or the Circuit Court of Appeals was any question raised by attorneys for Conrad E. Langfield regarding the sufficiency of the pleadings on behalf of Solventol Chemical Products, Inc.; that Affiant, in preparing the record of appeal, inadvertently omitted to include therein the answer to the Defendant's counterclaim filed and served in the District Court on March 12, 1940; and that this omission was not discovered by Affiant until he received a petition for writ of certiorari to the Supreme Court of the United States filed in the case by Conrad E. Langfield.

Further Affiant sayeth not.

/s/ John A. Blair.

Sworn to and subscribed before me this 16th day of July, 1943.

/s/ Lois Elaine Linn,
Notary Public, Wayne County, Michigan.
My Commission expires: March 25, 1946.

(Seal)

§124. Liability for using another's trade-mark.

Any person who shall without the consent of the owner thereof reproduce, counterfeit, copy, or colorably imitate any trade-mark on the register provided by this subdivision of this chapter, and shall affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs. Mar. 19, 1920, c. 104, §4, 41 Stat. 534.